

May 22, 1961

Mr. Nels Hansen,
Commissioner, Muddy Creek
Distribution System
Emery, Utah

Dear Mr. Hansen:

Enclosed, the letter we received some time ago on your system.

Will you give me your views on it. Let me know what course of action you recommend.

Your prompt attention to this will be appreciated.

Very truly yours,

Donald C. Norseth,
Distribution Engineer

DCW:ek

Enclosure

THERALD N. JENSEN

ATTORNEY AT LAW

PRICE, UTAH

MEDFORD 7-1542

May 2, 1961



State Engineer
State Capitol
Salt Lake City, Utah

Re: Emery Canal & Reservoir Co.-
Independent Canal & Reservoir

Dear Sir:

Last Saturday representatives of Emery Canal and Reservoir Company met at my office. It is my understanding that a Water Commissioner has been appointed to divide the waters between the two companies this year. I realize that you must have a number of pressing problems in light of the drought condition which besets us and the problems which I am about to mention are only accentuated by this condition.

FIRST: Undoubtedly you will recall at our meeting at Castle Dale on February 17 that the matter of the substantial loss of water in the old Emery reservoir was discussed. The Independent people constructed a dam and it is my understanding that although they have been unable to impound any water at this site because of the large crack which opened yet the existence of the dam does cause the water to back up and become lost into the earth. It is our information that this water is never retrieved. I believe the State Engineer was going to make some investigation of this matter shortly following our February meeting. The situation remains critical and the loss this year is particularly harmful. We believe if the dam were removed this water could be saved. The other alternative perhaps would be to construct some sort of a structure to get the water past the faulty soil which has been opened up. Time is of the essence and it would appear that the Independent people could commence work this week toward a solution of this problem. In the event they do not do so then my clients request that the Water Commissioner take measurements of this water which is being lost and replace the same from stored water in other reservoirs of Independent. We will greatly appreciate it if you will call this matter to the attention of the Water Commissioner and of the Independent people and see if the situation cannot be remedied within the next week or ten days.

SECOND: There are a number of springs--four in particular--which arise in the Julius Reservoir. In making his calculations the Water Commissioner should take into account the output of these springs, all of which belong to the direct-flow rights of my clients, but all of which are now being impounded in the reservoir of the Independent.

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State Engineer
May 2, 1961
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THIRD: As of last Saturday, April 29th, the direct-flow rights of my client originating above the reservoir of Independent was all being impounded contrary to the decrees. An offsetting credit should be allowed to my client for these direct-flow rights which have been and are being impounded and of course immediate steps must be taken, if they have not now been taken, to measure the input of these direct-flow rights so that that much water can be allowed to pass through the reservoirs or some other means of compensating for this loss must be reckoned.

FOURTH: My client does not desire to cause any unnecessary friction but we do insist upon the recognition of the basic rights hereinabove set forth and we will appreciate your giving appropriate instructions to your deputy who is acting as Water Commissioner. I am sending a copy of this letter to the Independent Canal and Reservoir Company for its information.

Very truly yours,

Sherald N. Jensen

TNJ:mb

cc: Independent Canal & Reservoir Co.
Moore, Utah

Mr. Ray Jensen, President
Emery Canal & Reservoir Co.
Emery, Utah